

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

AARON GLAESER,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 3-05-1043
)	JUDGE WISEMAN/JUDGE GRIFFIN
)	JURY DEMAND
CHEATHAM COUNTY SHERIFF'S DEPARTMENT, MUNICIPAL GOVERNMENT OF CHEATHAM COUNTY & JASON LITTLEJOHN)	
)	
Defendants.)	

ANSWER OF DEFENDANTS

Come now the Defendants, **CHEATHAM COUNTY SHERIFF'S DEPARTMENT, MUNICIPAL GOVERNMENT OF CHEATHAM COUNTY & JASON LITTLEJOHN**, and for their Answer to the Complaint filed against them in the above styled cause of action, would state as follows:

1. These Defendants affirmatively deny any violations of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, or any other rights of the Plaintiff as alleged in Paragraph 1 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff.

2. These Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States or any other rights of the Plaintiff as alleged in Paragraph 2 of the

Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff.

3. These Defendants admit jurisdiction with this court is proper. Furthermore, these Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, the or any other rights of the Plaintiff as alleged in Paragraph 3 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff.

4. These Defendants admit, upon information and belief, that the Plaintiff is a resident of Sumner County, State of Tennessee

5. The Defendants admit Jason Littlejohn is employed in Cheatham County as a Cheatham County Deputy Sheriff. Any other allegations of paragraph 5 of the Complaint are denied.

6. Cheatham County is a governmental entity within the State of Tennessee. Any other allegations of paragraph 6 of the Complaint are denied.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Denied.

14. Denied.

15. The Defendants admit Jason Littlejohn discharged his weapon and the bullet struck the Plaintiff. Any other remaining allegations are denied.

16. Admitted.

17. Denied.

18. This Defendant lacks knowledge or information sufficient to admit or deny the allegations of paragraph 18.

19. Paragraphs 1-18 are incorporated herein.

20. Denied.

21. Paragraphs 1-20 are incorporated herein.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Paragraphs 1-28 are incorporated herein.

29. Admitted.

30. Denied.

31. These Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, or any other rights of the Plaintiff as alleged in Paragraph 31 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff. These Defendants lack knowledge or information sufficient to form a belief as to the extent of the plaintiff's alleged damages and

injuries, but these Defendants affirmatively deny any breach of duty, wrongdoing or improper act or omission proximately caused the damages alleged.

32. These Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, or any other rights of the Plaintiff as alleged in Paragraph 32 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff. These Defendants lack knowledge or information sufficient to form a belief as to the truth of the matters asserted regarding the plaintiff's injuries and damages.

33. These Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, the Statutes of the State of Tennessee or any other rights of the Plaintiff as alleged in Paragraph 33 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff. These Defendants lack knowledge or information sufficient to form a belief as to the truth of the matters asserted regarding the plaintiff's injuries and damages.

34. These Defendants affirmatively deny any violations by these Defendants of the Plaintiff's Civil Rights and/or any rights secured by the United States Constitution, the Statutes of the United States, the Statutes of the State of Tennessee or any other rights of the Plaintiff as alleged in Paragraph 35 of the Complaint. These Defendants further deny any act or omission or factual or legal basis for any cause of action against these Defendants by the Plaintiff. These Defendants lack knowledge or information sufficient to form a belief as to the truth of the matters asserted regarding the plaintiff's injuries and damages.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted, and these Defendants affirmatively aver the Complaint should be dismissed for failure to state a claim pursuant to Federal Rule of Civil Procedure 12 (b) (6).

2. The Defendants assert Eleventh Amendment Immunity and Qualified Immunity as affirmative defenses.

3. These Defendants also affirmatively assert no actions, inactions, omissions, policies, customs or procedures of the Defendants proximately caused the alleged injuries to the Plaintiff.

4. These Defendants assert they are entitled to Attorneys fees as the prevailing party upon dismissal of this action.

5. The Defendants assert the Cheatham County Sheriff's Department is not a suable entity under 42 U.S.C. 1983 as it is not a person as defined therein.

6. The Defendant "Municipal Government of Cheatham County" is not an entity.

7. The Defendants assert as an affirmative defense the Statute of Limitations.

8. The Defendants assert as an affirmative defense insufficiency of Service of Process and insufficiency of process pursuant to Federal Rule of Civil Procedure 12.

And now having fully answered the Complaint filed in this cause, these Defendants pray that this action be dismissed against them, or in the alternative, demands a jury to try this cause.

Respectfully submitted,

ORTALE, KELLEY, HERBERT & CRAWFORD

/s/ W. Carl Spining
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was forwarded, via first class U.S. mail, postage pre-paid, to the attorney for the Plaintiff, Adam Wilding Parrish, 110 South Cumberland, Lebanon, TN 37122, on this the 9 day of March, 2006.

/s/ W. Carl Spining
W. Carl Spining